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From: Ferrell, Mark
Sent: Mon 3/10/2014 3:18:41 PM
Subject: CORRECTED: WV spill - the other crisis - communications breakdown

(sorry - THIS is the story I referenced earlier - another communications breakdown!)

March 8, 2014

West Virginia's other crisis

<http://www.wvgazette.com/Opinion/DawnMiller/201403080022>

A week ago, Gov. Earl Ray Tomblin ended the "state of emergency," an official term that helps to define what kind of help is available to the public. However, the effects of Freedom Industries spilling thousands of gallons of a coal-washing chemical into the drinking water will be felt in this region for a long time.

Indeed, the state's handling of this chemical spill has precipitated a whole other crisis, one the governor may not fully appreciate.

Debbie Downs, of South Charleston, summed the matter up perfectly in the Sunday Gazette-Mail:

"This is all about trust," she told Gazette reporter Travis Crum while waiting to refill water jugs, a day after the governor's announcement and many weeks after West Virginia American Water Company assured everyone they should drink the water.

But the governor, his public health staff and West Virginia American Water had long since lost the public's trust, and they could not have done it more thoroughly if they had drawn up a plan first. In the early hours, first they weren't sure what chemical was in the water. Then they couldn't say what the effects are on human health, or what is considered a safe level.

Still, people deal with uncertainty. "I don't know" is sometimes the only honest answer, and the public expected the professionals to figure it out and advise.

But when the flushing instructions came, they did not take into account large structures or people with septic tanks. Water company and state health officials encouraged people to use the water right away, only to learn that breathing the vapor and washing in it sent some people to hospitals and caused less severe symptoms in who knows how many others. And when people reported these concerns, for their pains they received a lot of doubletalk and insults.

State and federal public health and water company officials all mouthed the words "abundance of caution," but their actions belied their words. What they really showed was an abundance of wishful thinking.

Everyone wants things to get back to normal, they seemed to think, so the sooner we say all is well, the sooner everything will be back to normal.

But people aren't stupid. They know their water didn't smell like licorice before the spill, and out of a true abundance of caution, chose in large numbers not to drink or cook with it until they had some reason to have more confidence. The

more Gov. Tomblin's public health director Letitia Tierney belittled people's concerns, the more West Virginia American Water President Jeff McIntyre ignored worries that the chemical lingered in residential pipes and appliances, the more they put their assurances ahead of their data, the more trust they lost. For the longest time, state health officials seemed to have no interest in testing homes to verify what they were assuring people - that all was well. Gov. Tomblin only reluctantly agreed to home testing. His public health people still don't seem to know if they want to study possible health effects long-term. Last week, Ann Goldberg, director of public-health regulations for the state Bureau of Public Health, told lawmakers there are no plans for long-term study, the Gazette's David Gutman reported. Perhaps sensing that was the wrong answer, DHHR spokeswoman Allison Adler clarified in a follow-up email that they are reviewing a plan and they'll need money. This week, Delegate Meshea Poore, D-Kanawha, observed that Tierney has been inconsistent in her messages to lawmakers on the need for more study. That's putting it mildly.

Of course, everyone has wanted the crisis to be over, to get back to normal. But - more wisely than their "leaders" - state residents don't pretend all is well when it isn't, or when they lack the data to make a determination. What no voter, taxpayer, ratepayer, householder, business owner or anyone else wanted was premature reassurance.

And that brings us to the other crisis. Sunday marks the two-month anniversary of the chemical spill. The next time there is a public health emergency - and there is always a next time - thousands of West Virginians will not trust their public health officials, even the diligent ones. Well-being and possibly lives may be at stake, and the professional, expert advice that the public needs and pays for will all be suspect. Their cautions, their recommendations, their prohibitions, all carry less trust than they did two months ago. This is a dangerous state of affairs.

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From: Ferrell, Mark

Sent: Monday, March 10, 2014 11:09 AM

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Subject: WV spill - the other crisis - communications breakdown

This op-ed written by the editorial page editor at the Charleston Gazette and examines why

public confidence remains low in West Virginia re: MCHM spill in the Elk River.

<http://www.wvgazette.com/News/201403090051>

March 9, 2014

Feds took gun from Freedom cleanup company, neighbor says

CHARLESTON, W.Va. -- The owner of a company hired by Freedom Industries to clean up its tank farm on the Elk River wouldn't say Sunday if federal investigators removed guns from his company's property last week.

Daniel Carlton Kessler said that he had no idea why dozens of federal agents showed up at Diversified Services LLC on Thursday. The company, which has also hauled chemicals for Freedom Industries in the past, is under federal investigation, and has a history of environmental complaints filed against it.

U.S. Attorney Booth Goodwin, who is conducting a criminal investigation into the leak at Freedom Industries, also wouldn't say why FBI agents were at Diversified Services.

Cecelia Sanson owns CJ's Auto Sales and other property next to Diversified Services, at 110 Virginia St. in St. Albans. Sanson and her family have filed complaints for years with the state Department of Environmental Protection about chemical leaks and odors coming from Diversified, which Kessler founded in 2010.

Sanson said she saw federal agents confiscating a gun from Diversified Services on Thursday.

She didn't know what kind of gun it was, but thought it was a rifle.

"It was more like something you'd see in war," Sanson said of the gun. "I don't know my guns but I do know it was a real long gun. You could knock a rabbit in the head instead of having to shoot it.

"[Kessler's] wife jumped out of the truck and yelled, 'Hey, that's my husband's gun.'"

Asked if investigators took guns from his property, Kessler referred comment to his lawyer, whom he did not identify.

In 1995, Kessler pleaded guilty to misdemeanor assault and battery in the Circuit Court for Anne Arundel County in Annapolis, Md., according to court records and a court official. He pleaded to that charge in exchange for the state dropping four other charges, including assault with intent to murder and reckless endangerment.

Kessler was sentenced to six months in jail, although the sentence was suspended. He was also sentenced to five years of probation, but violated his probation about a year later, according to court records.

As part of the plea deal, Kessler was required to complete a spousal abuse program, according to court records.

Federal law bans any person who has been convicted of a misdemeanor crime of domestic violence from possessing a firearm. It's not clear if that law would apply to Kessler's conviction.

The Kanawha County Sheriff's Department issued Kessler a concealed weapons permit last April, according to Kanawha County public records.

If investigators find that Kessler had a gun illegally or committed some other crime, they could use that as leverage to make a case against Freedom Industries.

Three years ago, Kessler was the intended victim of a murder scheme.

In 2011, Brent Boggs, a former business associate of Kessler (and no relation to the House of Delegates leader of the same name), tried to hire three men to kill Kessler, according to court documents.

In 2013, Boggs was sentenced to one to three years for "soliciting, instigating or inducing" the three men to commit first-degree murder, according to Boggs' indictment on file in Clay County Circuit Court.

In an interview with The State Journal in 2012, Kessler said he believed Boggs wanted to kill him because he backed out of a business deal involving gas wells.

The newspaper reported that out of fear, Kessler installed more than two dozen security cameras outside his office and "is never more than a few feet from a loaded gun."

Kessler also owns Buffalo Ridge Environmental Services LLC on Stable Ridge Road in Charleston.

In 2003, he filed for Chapter 7 bankruptcy in U.S. Bankruptcy Court in Baltimore.

At least as far back as 2011, there have been environmental complaints about odors and possible chemical leaks at Diversified Services.

On Dec. 29, 2011, Jean Sanson, Cecelia Sanson's mother, wrote to U.S. Rep. Shelley Moore Capito about the problems and her frustration with the state DEP.

"My problem is the chemical ran over on to property that I own," Jean Sanson wrote. "Also under a mobile home that I have rented out. The renter can't live in the home from the smell."

Jean Sanson wrote that DEP investigators had visited the site and issued Notices of Violations, but the smells and leaks persisted.

"Who's going to get them to clean up the mess?" Sanson wrote.

She continued to write letters for about 18 months. She wrote to Capito again, and to the DEP, and to the U.S. Department of Transportation.

On March 15, 2012, the Department of Transportation wrote to Sanson about Diversified Services.

"The entity was reviewed and no violations concerning your complaint were discovered. The materials listed in your complaint were determined to be non hazardous," wrote Michael Myers, a DOT administrator.

Crude MCHM, the chemical that Diversified transported for Freedom, is regarded as non-hazardous by the Department of Transportation. After the coal-cleaning chemical leaked into the Elk River near a West Virginia American Water intake, 300,000 West Virginians in nine counties were told not to drink, cook with or wash with their water for days. More than two months later, some residents say they still don't believe their water is safe.

The Sansons' complaints continued, without resolution.

On Feb. 28, 2013, Dan Bauerle, a DEP engineer, wrote to colleagues that he had received a call from Jean Sanson complaining of "recurring (objectionable) odors," according to emails provided by Sanson.

"This odor was detected in the CJ Autos outside lot by Richard Sanson [Jean's husband] while he was feeding the birds," Bauerle wrote. "This is a chemical odor and also like licorice."

The DEP's division of air quality investigated the next day but concluded that the odor "did not achieve objectionable status."

Last week the DEP announced that it was investigating a chemical release at Diversified Services after federal agencies told them there was a problem.

"The U.S. Environmental Protection Agency, which is conducting a separate investigation of Diversified Services, along with the Federal Bureau of Investigation, informed the WVDEP today of a sheen in a drainage system near Diversified Services," the DEP wrote. "It is not known how much material got into the drainage system or the exact cause and timeframe of the release."

It wasn't surprising to Jean Sanson.

"We've watched him dump it out on the ground," she said. "He thinks the laws are for everyone else."

Staff writer Ken Ward Jr. contributed to this report.

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